

Lewis County Planning Commission **Workshop**

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

December 8, 2015 - Meeting Notes

Planning Commissioners Present: Russ Prior, District 3; Bob Guenther, District 3; Mike Mahoney, District 1; Richard Tausch, District 2; Leslie Myers, District 1

Planning Commissioners Excused: Sue Rosbach, District 1; Jeff Millman, District 2

Staff Present: Fred Evander, Eric Eisenberg, Brianna Teitzel, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes
- Staff Report re: Code Amendments
- County Trends

1. Call to Order

Chair Mahoney called the meeting to order at 6:01 p.m. The Commissioners introduced themselves.

2. Approval of Agenda

There were no additions or corrections to the agenda and it was approved.

3. Approval of Meeting Notes

There were no additions or corrections to the meeting notes of November 10, 2015 and they were approved as presented.

4. Old Business

A. Workshop on Proposed Changes to Code Process

Mr. Evander introduced Brianna Teitzel, the newest planner in Community Development. Chair Mahoney stated he was pleased to see someone come back to our local community.

Mr. Evander stated staff would like to get started on the changes to the code process and believed it would be possible with Ms. Teitzel's help. He referred to the process chart at the last meeting and the Commissioners thought it was a good start towards re-organizing the code. The chart shows 8 permit types. Mr. Evander went through the code and looked for every type of permit that Community Development is issuing and tried to classify them. Some of them did not have a good fit, such as Recreational Vehicle Parks or the Binding Site Plan process. Ultimately staff would like to figure out a way to systematize things across the various permits and if possible eliminate a couple of the classifications if they are unnecessary.

Chairman Mahoney asked if this process is a county-driven project or is it driven by state law. Mr. Evander stated some is driven by state law but a lot of it is county process. Over time when a new permit is added, a new process is added. That is not necessary. For a certain permit, everywhere that relates to that permit the appeal process can be removed for that permit because the appeal process is someplace else. The process for appeals is expressed well in the Hearing Examiner section, but every permit type has an appeal section and they are all slightly different. The notice periods vary from permit type to permit type. For example, it is 10 days for an administrative approval, which is in conflict with state law which states it should be 14 days. For special use permits it is 30 days.

Chair Mahoney asked if the 10 days is calendar days or business days. Mr. Evander stated it was calendar days. Chair Mahoney suggested it should be more specific and that one or two notice periods would be best.

Commissioner Guenther stated it sounds like Mr. Evander is trying, whenever practical, to have a standard procedure and he hopes it is not different procedures for different applications. Mr. Evander stated that is his intent. He used a "conglomerate rock" as an example. This is a rock made up of a lot of rocks that have been added on. That is what has happened to the code. Little by little those pieces in and of themselves look good but when the code is considered as a whole there is no uniform process. Most counties and cities have 5 permit types. Lewis County has 8. He believes it does not need to be that complicated.

Mr. Evander would like Ms. Teitzel to work on the code and he would like it to be clear what is to be done. One issue is the notice period. He recommended that in all instances the notice period is changed to 14 days, or at least 15 days before an open record public hearing. That is in conformity with state law on the subdivisions and binding site plans, it also brings down the review time necessary for special use permits. For some special use permits there is no reason for a 30-day notice period. That is a month that an applicant is waiting for a public hearing and that is not necessary.

Chairman Mahoney asked about the master plan. He did not see a need for a 30-day notice period. Mr. Evander stated that could be 14 days or at least 15 days before an open record public hearing, or a caveat could be added that the person reviewing the permit could expand the review time out if it was deemed necessary, but not beyond 30 days (which is also in state law).

Chair Mahoney stated the 14 or 15 days before a public hearing is a minimum. He asked if there needs to be a maximum time. Mr. Evander stated that could be done.

Commissioner Prior noticed that the 30-day notice period are for the same code: 17.05.100. He asked if there something special about that chapter. Mr. Evander stated that was one that was looked at originally and he recommended striking it because it is too long. Commissioner Prior stated if that is struck then the 30 day notice goes away, also. Mr. Evander stated ultimately he would like to get to a point where everyone is comfortable and then go into the code and remove things that would no longer apply. For example, the notice part of that chapter would go away because there is already a clear notice period.

Commissioner Prior asked where building permits would fit into the types. Mr. Evander stated building permits are typically not in the land use chapter. Commissioner Prior stated he does not understand

what the types are. Mr. Evander stated the second page shows the various types. A big problem with Lewis County Code is it is unnecessarily complicated and a lot of that is in how it is administered. It leads to gray areas when it is administered. Chair Mahoney stated that also leads to conflicts between sections.

Mr. Eisenberg, Civil Deputy Prosecuting Attorney, stated the code has different procedures for different things. When Mr. Evander says he wants to clean it up is he suggesting that in each of those separate code sections there will be a provision that says the public notice shall be provided as in Table 4, for example, and Table 4 would be in the code? Mr. Evander stated that is correct and ultimately the whole idea is not just for public notice provisions but for appeal provisions. If an application is going through the process, here is how public notice is done, here is how appeals are done, etc.

Mr. Evander asked if the page with the types of applications helps to clarify. Commissioner Prior stated on the first page the Master Plan is under Type VI. On the second page there are two Master Plans and they are under Type III. He asked if Mr. Evander could explain.

Mr. Evander stated that the type is solely the permit process that it would go through. Commissioner Prior stated that a Master Plan is a type VI. Mr. Evander stated a Master Plan in most cases is a Type VI. Commissioner Prior asked why there are two Master Plans under type III. Mr. Evander stated he might have given the incorrect name of Master Plan to that section. He asked to have the County Code shown on the screen, calling attention to chapter 17.20B, Master Planned Major Industrial Reclaimed Surface Coal Mine Urban Growth Area. That is the Industrial Park at Trans Alta (IPAT) and it does not require a comprehensive plan change because it is already designated as an Urban Growth Area in the comp plan. That is why that is put into Type III. Every other master plan would require a change to the comprehensive plan which is why it is under Type VI. All of the other master plans, Fully Contained Communities and Planned Resorts, require a change to the zoning code and a change to the comp plan. It is a unique process that requires a hearing before both the Planning Commission and the Hearing Examiner. The Planning Commission went through that with Birchfield. That same process is a Type VI application.

Commissioner Prior stated that makes sense but he is confused about the names that are put to these types of applications and he asked if that could be looked into. Mr. Evander stated if there were problems with names he would evolve to Type I, Type II, etc. Commissioner Prior stated as long as there is a definition that would be fine.

Commissioner Guenther stated the IPAT Master Plan is described as a specific entity where the others are not specific. Mr. Evander stated they are all in different sections in state law and the Growth Management Act. The Master Industrial Reclaimed Surface Coal Mine is called out in state law and only applies to IPAT.

Commissioner Prior stated he did not understand what the categories are. Mr. Evander stated he used the process chart to determine the categories. Each permit fits into a different process. He wrote down the process and whichever permit fit within that process was included in that process. To clarify, the Roman numeral "types" are just designations.

Mr. Evander called attention to 17.165.055, Process for administrative approval and administrative reduction. This specifies everything that needs to be done. This is reiterated in numerous places through the code. The Hearing Examiner section explains how an appeal is handled. Those are not needed in more than one place.

Chairman Mahoney asked how long the Planning Commission has to work on the code process. Mr. Evander stated this can be worked on for as long as the Commission needs. If the changes are made and make sense then there will be a lot of code work to accompany this. Commissioner Prior stated he assumes by that in doing so a lot of the code will be eliminated. Mr. Evander stated that was correct. So many things are buried and difficult to find; it does not need to be that complicated. It makes sense to group everything in one section and if someone is submitting an application this is what needs to be submitted; this is how it will be reviewed, this is how it will be appealed.

Chairman Mahoney asked if these changes apply to Title 17 only. Mr. Evander stated it is primarily Title 17; Title 16 was included because of the subdivision section that also needs to be cleaned up.

Chair Mahoney stated if changes that occur look well and the County Commissioners enact them, somewhere there will be a matrix that shows the process on just a few pages; that is what the goal is. Mr. Evander stated that is what the Process Chart is trying to accomplish. If someone wants to do an administrative approval, it would be nice to show the criteria on the side of the page and then show the process for how that will be done.

Mr. Evander stated noticing requirements is the next issue. Currently there are different distances to neighbors for a mailing depending on the permit, ranging from 300 feet to 1000 feet. He asked if it would be appropriate to go to one distance. The distances are from the perimeter of the property. He thought that 1000 feet can be kept for Master Plans because they are rare and they tend to have more impact on the surrounding properties. 300 feet or 500 feet would be adequate for other permits.

Chairman Mahoney saw a potential problem. A variance to have a roofline closer to the property line would only affect one neighbor. If the variance is for a marijuana processing plant, that would affect neighbors within a couple of miles. Mr. Evander stated those were good points. He continued to say that these are for notices that are mailed to properties. For a lot of applications a notice is posted on the front of the property so neighbors will see it when they drive by. Some applications require notice in the newspaper. Currently the code is doing the reverse of what Chair Mahoney mentioned. Less notice is provided to neighbors for the more impactful land use actions than for the less impactful actions. For Administrative Approvals, which are generally fairly benign, 500' notice is required from the periphery of the property. Subdivisions and Binding Site Plans require 300' notice. Mr. Evander did not see any distance mentioned for special uses, or even if a notice needs to be sent out.

Chairman Mahoney asked Mr. Evander to also consider that in a small town residential area, 500' might include 30-40 homes. If it is an agricultural area, a 1000' might only include two other property owners. He would like to see more uniformity and reference in one place, but some of the notifications must be based on what is being proposed and where it is being proposed.

Commissioner Prior stated there are various places where there are notice requirements for various permit types. If someone wants to do a land use action, as Commissioner Prior understands it, the

noticing requirements are written within that section of the code. There are other noticing requirements in a different section of the code. What Mr. Evander is proposing is to have one or two noticing requirements in a totally separate section of the code. If someone is doing a land use action he will be referred to the noticing section. Will he be forced to bounce all over the code to follow the process or is the process going to be on one or two pages where they can see the flow? Mr. Evander is proposing that that is what the Process Chart will accomplish.

Mr. Evander stated Chapter 17.115.040 deals with an application and requirements for a special use permit for a mine. Chapter 17.05.100 deals with noticing for special use permits. To piece these together is cumbersome. Commissioner Prior stated that flying through the code that was just done is exactly what should not have to be done. He assumes the table will have references to code sections that need to be read, which will still mean they will be bouncing all over the code. Mr. Evander stated what he would like to see is an administrative section for administering the code. This would show how you notice an application, or how a public hearing is held. To take all of those various sections and group them into one coherent section is the goal. If someone is looking for the criteria for a specific permit he can go right to that section.

Chairman Mahoney stated as staff develops this administrative section, and assuming the County Commissioners approve it, then all of those notice, review and appeal sections are eliminated and it comes back to the administrative section. Mr. Evander stated a lot of the code will be cut out. When Mr. Evander worked for the City of Tenino, it had a matrix for a zoning table and cut out more than 50 pages of the code by doing that. Similar changes can be made for Lewis County; it will take time and serious work but it can be done.

Mr. Evander asked if it would be appropriate to point all of the appeals to the Hearing Examiner section. He did not think there was a need for various provisions for a Hearing Examiner to hear an appeal if there is already a section that specifies how they are going to hear it. Chapter 2.25, Hearing Examiner, explains how the hearing examiner works. Chapter 2.25.130 explains how something gets to the hearing examiner. 2.25.140 explains what happens if an appeal from an examiner are handled. It makes sense that rather than trying to duplicate all of this in Title 17 that reference is made to this chapter. If that is done then all appeal verbiage can be eliminated in Title 17.

Commissioner Prior stated he likes that approach and asked if there is sound legal ground to do that. Mr. Eisenberg stated he would need to look at it. He was not sure if the Growth Management Act requires that certain things be appealable to a Planning Commission as opposed to a hearing examiner, or to some other body. He would check into that. Mr. Evander stated currently there is nothing that is appealed to the Planning Commission. SEPA determinations are appealable to the hearing examiner, as well as administrative determinations. Mr. Eisenberg asked if there were certain types of appeals that are in the land use arena under Title 17 that require expertise in planning or land use. The major benefit of the hearing examiner is that they are good at conducting hearings, they know how to get evidence, and they are outside of the planning world so they are fair, but they lack expertise on the specific topic. For a building code appeal there is a group that consists of building contractors, engineers and architects because building issues sometimes require expertise in construction. The downside of having every appeal go to the hearing examiner is if there were a case where expertise was needed.

Commissioner Prior stated that in his experience if someone has asked the Planning Commission to make a quasi-judicial decision on their parcel and he doesn't like that decision, he can appeal it to the hearing examiner. He may have some experts who can provide testimony to the hearing examiner. It is incumbent upon the applicant to provide that expertise; it is not incumbent upon the county to provide that expertise. Mr. Eisenberg stated in the case of the building section, it is usually the case that a person wants the building in a certain fashion and the county has said no. They want to argue that the county's interpretation of the code is unreasonable. It is in the county's interest to have a panel of experts to back up the building official's decision on that.

Chairman Mahoney thought Mr. Evander's suggestion of using the hearing examiner in that way makes sense to him. The hearing examiner interprets the law. Within Title 17 the appeals have to do with interpreting the ordinance, so the hearing examiner is the right place for that.

Mr. Eisenberg stated it makes sense to have appeals before the hearing examiner except in circumstances in which the original hearing was in front of the hearing examiner, which is true for special use permits. Mr. Evander stated that is when the appeal goes to someone else and that is specified within that section of the code – either Superior Court or the Growth Management Hearings Board. All of this is explained much better in Chapter 2.25 than in the land use code, so it doesn't need to be addressed in the land use code.

Mr. Evander stated Type IIb and IIc can be combined with another land use type; it is a matter of what to combine them with. The Recreational Vehicle Park divisions are basically an administrative approval. The current planner (Karen Witherspoon) would make a determination and the public hearing would be moderated by the hearing examiner. The hearing examiner would not make the decision. This could be combined with the Type II process where neighbors are noticed and if they want a public hearing they can request one before the hearing examiner. If no public hearing is requested, Ms. Witherspoon would make the decision on that application.

Chairman Mahoney asked if an RV park is a commercial enterprise couldn't it be included in the commercial/industrial process? Mr. Evander stated administrative approvals can have commercial uses, too. Chairman Mahoney stated he didn't think RV parks needed to be handled as a distinct entity; they could be included with other types of development. Mr. Evander would like to move it to Type II.

Mr. Evander suggested combining the Binding Site Plan for commercially or industrially zoned land with another process. Currently this is the only type of application that is decided by a committee that includes the directors of Public Works, Community Development, and Public Health. It is the only one like that and he thought it should be an administrative approval because it is an official making a decision on an application. There is no public hearing. It could go into a category that requires a public hearing or it could be called an administrative use and is decided by the planning official. Consultation always occurs for every land use application so it is not necessary to have a committee consult.

Chairman Mahoney stated for an application for commercial or industrial land, and assuming the use that is proposed is appropriate for that zone, an administrative decision should be adequate. Mr. Evander stated it is an administrative approval currently but it calls out a special committee process.

Commissioner Prior asked how often the special committee is convened. Mr. Evander stated he did not know, but probably not very frequently. If someone does submit an application and the committee is convened then staff needs to look at the code section to see how it works. That is not productive.

Commissioner Prior asked Ms. Teitzel if she could give her idea of what the big picture looks like. Ms. Teitzel stated she has been reading the code. Ms. Witherspoon has asked her to research what a customer is looking for. She has noticed that she has to look in several places for the answer and Mr. Evander is trying to simplify the code for people who are working on their permits and for staff as well. When she thinks she has the answer Ms. Witherspoon has told her she needs to look in more places. It makes a lot of sense to simplify the code.

Mr. Evander stated that there will not be a complete overhaul of the code but small, incremental improvements.

Chairman Mahoney asked if the County Commissioners have been advised of these changes. Mr. Evander stated it has not been discussed. Chair Mahoney suggested having one of the County Commissioners present when a section is completed. He thinks the Commissioners will be in favor of the changes and they should be aware of what is being done.

Commissioner Guenther stated that what has been discussed tonight makes sense to him. He would like to see a single page with four or five bullets that show the incremental improvements that are going to be made so the public and staff can understand the code and have quicker opportunities for action.

B. Discussion on Comprehensive Plan Update

Mr. Evander stated at a past meeting there was discussion about hard data to accompany some of his outreach. He included in the packets a document that shows county trends. It shows population, housing, education, wages, employment, economic activity, tourism and agriculture. Mr. Evander pointed out some of the highlights in each category. Mr. Evander stated having this available to the public is part of the comprehensive plan update. He would like to create some tri-fold boards to place around the county with this information along with a survey. The questions: What do you like about Lewis County; What don't you like about Lewis County; What is your vision for the future of Lewis County.

Mr. Evander asked if there were comments.

Commissioner Prior stated he was very impressed with the information that would be going out.

5. New Business

There was no new business.

6. Calendar

The next meeting is scheduled for January 12, 2016; a workshop on the Shoreline Master Program and election of officers.

Chairman Mahoney thanked Commissioners Guenther and Tausch for their long commitment to the Planning Commission.

7. Good of the Order

Mr. Evander read letters for Commissioners Guenther and Tausch from the Board of County Commissioners, thanking them for their contribution to the Planning Commission. Mr. Evander asked each Commissioner what his number one memory was with the Planning Commission. Commissioner Guenther stated it was when he was Chair and the county was trying to get out from under invalidity with the Growth Management Act. That involved a lot of work with a lot of people and there were some tense times and the Commission stuck together and got the county out of invalidity. There was also the proposed division of property on Mineral Lake. The Planning Commission recommended that the county not go forward with dividing the property into small parcels. The County Commissioners did not agree with that recommendation but it eventually came back and the property was not divided.

Commissioner Tausch stated he, too, thought working through invalidity was hugely satisfying. He also wanted to recognize the phenomenal job that staff has done and he believes it is the best staff he has worked with in over a decade. He especially commended Mr. Evander for being “a breath of fresh air” and hoped he would stay for 50 years. Commissioner Tausch also thought that the Planning Commission composite was the best he had seen, and he was very pleased that two women were on the Commission.

8. Adjourn

The business before the Commission was concluded and the meeting adjourned at 7:42 p.m.